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From:

Sent: Friday, December 03, 2010 9:09:03 AM

To:

Cc:

Subject: RE: Question on TEFRA and mitigation issue now being raised

(1) FSA's are not binding precedent and merely represent the opinion of the attorneys who wrote it at the time the FSA was issued. FSA's are not reviewed or approved by Chief Counsel executives as are Revenue Rulings. Sometimes FSA's issued at different times, by different attorneys, on different facts will appear not to be consistent. So you should not feel bound by the prior FSA if your independent analysis reaches a different result. We would be happy to review your ultimate analysis.

(2) Mitigation applies to both TEFRA and non-TEFRA adjustments. But whether it applies in your particular case depends on your specific facts as applied to the law.

(3) Partnerships generally have no authority to bind their partners to settlements. Thus, the Form 2259 would likely have to be signed by the affected partners.

(4) is familiar with both the mitigation provisions and TEFRA partnerships, so you may wish to use him as a resource in developing your analysis.